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SB 1067: cities; water infrastructure finance authority

Sponsor: Senator Shope, LD 8

Transmitted to the Governor

Overview

Outlines the requirements and exceptions for municipalities, counties and sanitary districts to enter financial assistance loan repayment agreements with the Water Infrastructure Finance Authority (WIFA).

History

Financial Assistance Loan Repayment Agreements

WIFA provides financial assistance to political subdivisions for a variety of construction, rehabilitation and improvement projects related to drinking water, wastewater, wastewater reclamation and general water quality. The Clean Water Revolving Fund and the Drinking Water Revolving Fund are administered by WIFA, and the Authority generates the revenue needed to provide these funds with the state match required by federal law ([A.R.S. § 49-1203](#)).

To repay this obligation, political subdivisions may enter financial assistance loan repayment agreements with WIFA. This agreement is an arrangement offered by WIFA to repay a loan provided to design, construct, acquire, rehabilitate or improve water or wastewater infrastructure, related property and accessories or a loan provided to finance a water supply development project ([A.R.S. § 49-1201](#)). Municipalities, counties and some special taxing districts (including sanitary districts and domestic water or wastewater improvement districts) may enter into these agreements with WIFA. However, these agreements are sometimes subject to voter approval:

- Municipalities with populations above 150,000 persons are required to submit the question of entering this agreement to the voters ([A.R.S. § 9-571](#)).
- Barring specified exceptions, counties and sanitary districts must submit this question to the voters regardless of population ([A.R.S. §§ 11-671](#) and [48-2011.01](#)).
- Domestic water or wastewater improvement districts, however, are only required to submit this question to the voters if the district's population exceeds 50,000 people ([A.R.S. § 48-1019](#)).

Infrastructure Investment and Jobs Act

The Infrastructure Investment and Jobs Act was enacted in 2021 and appropriates funds for various infrastructure projects including water and wastewater infrastructure projects. Specifically, it makes emergency supplemental appropriations to the state revolving fund programs and modifies funding authority and eligibility to several existing Environmental Protection Agency funding programs, including the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund programs and grant programs ([P.L. 117-58 § 50211](#)).

Public Service Corporations and Eminent Domain

Public service corporations provide public utilities, such as the furnishing of water for irrigation, fire protection or other public uses or collecting, transporting, treating, purifying or disposing of

sewage ([Article 15, § 2, Constitution of Arizona](#)). The Corporation Commission regulates public service corporations, which includes setting these corporations' rates and charges and establishing rules, regulations and orders to govern these corporations ([Article 15, § 3, Constitution of Arizona](#)).

Counties, municipalities and other political subdivisions have the power to exercise eminent domain for various purposes, such as constructing roads or pipelines ([A.R.S. § 12-1111](#)). Municipalities may acquire facilities of a public service corporation by means of eminent domain. In these instances, the Corporation Commission is prohibited from authorizing a new certificate of convenience and necessity or franchise to any person, firm or corporation to provide the same kind of public utility service within the same area ([A.R.S. § 9-516](#)).

Provisions

1. Restricts WIFA from providing funds to a municipality to use to condemn or acquire through eminent domain a public service corporation's assets unless the corporation provides a written statement certifying it is a willing seller and consents to the provision of funding. (Sec. 1)
2. Allows, for fiscal years 2023 through 2027, the following political subdivisions to enter financial assistance loan repayment agreements with WIFA without submitting the question to the voters, provided the agreement is financed with federal Infrastructure Investment and Jobs Act monies:
 - a) Cities or towns, regardless of population;
 - b) Counties, regardless of population;
 - c) Sanitary districts containing a population of fewer than 50,000 persons; and
 - d) Domestic water or wastewater improvement districts, regardless of population. (Sec. 2)
3. Prohibits these political subdivisions from repaying financial assistance loan repayment agreements with secondary property tax revenue. (Sec. 2)
4. Makes technical and conforming changes. (Sec. 1)